

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

February 16, 2005

PETITION OF SPRINT COMMUNICATIONS  
COMPANY, L.P. FOR WAIVER OF AUTHORITY  
RULE 1220-4-2-.55(d)(2)

DOCKET NO.  
04-00283

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ORDER APPROVING WAIVER OF AUTHORITY RULE  
AND ALLOWING TARIFFS TO GO INTO EFFECT

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This matter came before Chairman Pat Miller, Director Deborah Taylor Tate, and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on September 13, 2004 for consideration of the *Petition of Sprint Communications Company, L.P. for Waiver of Authority Rule 1220-4-2-.55(d)(2)* ("Petition") filed by Sprint Communications Company, L.P. ("Sprint") on September 8, 2004. In its *Petition*, Sprint requested waiver of that portion of Tenn. Comp. R. & Regs. 1220-4-2-.55(2)(d)(2)<sup>1</sup> requiring interexchange carriers ("IXCs") to provide thirty (30) days notice to the Authority prior to implementing rate increases in connection with the filing of Tariff Nos. 2004-1060, 2004-1093 and 2004-1094.

**BACKGROUND**

On August 30, 2004, Sprint filed Tariff 2004-1060, to become effective on September 1, 2004, proposing rate increases for residential optional toll calling plans. On September 9, 2004, Sprint filed Tariff 2004-1093, to become effective October 1, 2004, containing a rate increase for other residential

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<sup>1</sup> In its *Petition*, Sprint requested waiver of certain tariff notification provisions pursuant to Tenn. Comp. R. & Regs. 1220-4-2-.55(d)(2). No such rule exists. From the *Petition*, it appears Sprint actually is referring to Tenn. Comp. R. & Regs. 1220-4-2-.55(2)(d)(2). This rule has been referenced correctly in this *Order*, except where it appears in the caption or in the title of the *Petition*.

optional calling plans. Also on September 9, 2004, Sprint filed Tariff 2004-1094, to become effective September 15, 2004, proposing rate increases to business optional calling toll plans.

Sprint stated in its *Petition* that, although each of the tariff increases at issue in this docket was implemented by providing Sprint's customers with thirty (30) days notice as required by Tenn. Comp. R. & Regs. 1220-4-2-.55(2)(d)(2), it has not provided the Authority with the thirty (30) days notice as is also required by the rule. Sprint asserted that its actions were based on the belief that since the Authority no longer regulated the intrastate interLATA rates, the Authority no longer required thirty (30) days notice prior to the effective date of an increase in those rates. Sprint also stated it relied on the fact that other increases have gone into effect with only a one (1) day notice to the Authority. Sprint also assured the Authority that it has corrected its misunderstanding and will fully comply with all requirements of Tenn. Comp. R. & Regs. 1220-4-2-.55(2)(d)(2). Finally, Sprint requested that the Authority waive the requirements of Tenn. Comp. R. & Regs. 1220-4-2-.55(2)(d)(2) and permit the three tariffs to go into effect.

#### DISCUSSION

Although intrastate interLATA rates are no longer regulated by the Authority,<sup>3</sup> the Authority retains the statutory power to require IXCs to file schedules of these rates with the Authority pursuant to Tenn. Code Ann. § 65-5-202 (Supp. 2003).<sup>4</sup> Based upon this statutory power, the Authority has enacted Tenn Comp R. & Regs. 1220-4-2-.55(2)(d)(2), which provides:

No tariff filing submitted pursuant to this rule that increases rates or changes terms and conditions which result in an increase in the billed rate of any service shall take effect sooner than thirty (30) days after notice to the Authority, unless otherwise directed by

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<sup>3</sup> Tenn Code Ann § 65-4-101(a)(9) (Supp. 2003) reads.

(9) For the purposes of §§ 65-5-201 and 65-5-203, "public utility" shall not include interexchange carriers "Interexchange carriers" means companies, other than incumbent local exchange telephone companies, owning facilities in the state which consist of network elements and switches, or other communication transmission equipment used to carry voice, data, image, and video traffic across the LATA boundaries within Tennessee.

<sup>4</sup> Tenn Code Ann. § 65-5-202 (Supp. 2003) reads:

The Authority has the power to require every such public utility to file with it complete schedules of every classification employed and of every individual or joint rate, toll, fare, or charge made or exacted by it for any product supplied or service rendered within this state as specified in such requirement

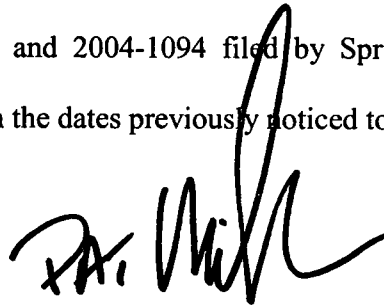
the Authority. Affected customers shall be notified in a conspicuous manner by direct mail and by publication of a notice in a newspaper of general circulation in the affected service area thirty (30) days prior to the effective date of any rate increases. A copy of such notice shall be filed with the Authority concurrent with the tariff filing

At the September 13, 2004 Authority Conference, the panel found that Sprint, with the exception of the notice requirement to the Authority, had complied with the provisions of Tenn. Comp. R. & Regs. 1220-4-2-.55(2)(d)(2). In addition, the panel found that Sprint had provided customers with the appropriate customer notice by direct mail and included a copy of the notice with their tariff filings. As a result, the panel voted unanimously to waive<sup>5</sup> the requirement of Tenn. Comp. R. & Regs. 1220-4-2-.55(2)(d)(2) that Sprint provide a thirty (30) notice of each of the tariffs to the Authority and to allow Sprint's tariffs to go into effect.

**IT IS THEREFORE ORDERED THAT:**

1 The *Petition of Sprint Communications Company, L.P. for Waiver of Authority Rule 1220-4-2-.55(d)(2)* is granted; and

2. Tariff Nos. 2004-1060, 2004-1093, and 2004-1094 filed by Sprint Communications Company, L.P. shall be permitted to go into effect on the dates previously noticed to their customers.



Pat Miller, Chairman



Deborah Taylor Tate, Director



Sara Kyle, Director

<sup>5</sup> Sprint has requested a waiver pursuant to the provisions of Tenn. Comp. R. & Regs. 1220-4-2-.55(2)(d)(2) itself, which states: "No tariff filing submitted pursuant to this rule that increases rates or changes terms and conditions which result in an increase in the billed rate of any service shall take effect sooner than thirty (30) days after notice to the Authority, **unless otherwise directed by the Authority**" (emphasis added). In addition, the Authority may waive its rules for "good cause" pursuant to the provisions of Tenn. Comp. R. & Regs. 1220-1-1-.05(1).